

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

AGREEMENT BETWEEN)	
BELLSOUTH)	
TELECOMMUNICATIONS,)	
INCORPORATED D/B/A AT&T SOUTH)	
CAROLINA, ALLTEL)	Docket No. 2000-130-C
COMMUNICATIONS,)	
INCORPORATED AND ALLTEL)	
HOLDING CORPORATE SERVICES,)	
INCORPORATED)	

**EMERGENCY MOTION FOR ORDER ACKNOWLEDGING WITHDRAWAL
OF AMENDMENT TO INTERCONNECTION AGREEMENT**

For the reasons set forth below, BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina ("AT&T South Carolina") respectfully requests that the Public Service Commission of South Carolina allow AT&T South Carolina to withdraw its February 28, 2008 submission of an amendment to the above-referenced interconnection agreement and enter an order acknowledging this withdrawal as quickly as possible (**and no later than May 27, 2008**) in order to avoid any suggestion that the amendment might be deemed approved ninety days after its submission pursuant to Section 252(e)(4) of the federal Telecommunications Act of 1996.¹

FACTS SUPPORTING MOTION

By letter dated February 28, 2008, AT&T South Carolina and Alltel Communications, Inc. ("ACI") submitted an amendment to the above-referenced

¹ This provision states, in pertinent part, that "[i]f the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation . . . , the agreement shall be deemed approved." In this case, day ninety falls on May 28, 2008. To avoid any arguments as to whether action on day ninety constitutes action "within 90 days after submission," AT&T respectfully requests that the Commission enter the requested Order on or before May 27, 2008.

agreement to the Commission pursuant to Section 252(e) of the Telecommunications Act of 1996.² That amendment extends the interconnection agreement between ACI and AT&T South Carolina that originally became effective August 29, 2004.³ The original interconnection agreement collectively addresses both the wireline services provided by ACI as a competitive local exchange carrier (“CLEC”) and the wireless services provided by ACI as a wireless provider.⁴ When the original agreement became effective, ACI was certificated to provide (and did provide) wireline services in South Carolina.⁵ At the time AT&T South Carolina signed the above-referenced amendment, and based on prior statements by ACI representatives, AT&T South Carolina believed that ACI remained a certificated CLEC in South Carolina.⁶

Specifically, in approximately 2006, Alltel Corporation embarked on a separation of its wireless and wireline businesses.⁷ Accordingly, AT&T South Carolina (then BellSouth) inquired whether the Alltel parties to the original interconnection agreement “still have the same legal association as represented in the [original] interconnection

² See Verified Direct Testimony of AT&T South Carolina witness Randy J. Ham (“Ham Direct”) at p. 2; Exhibit RJH-1.

³ See *Id.*

⁴ See Ham Direct at pp. 2-3; CD containing original interconnection agreement. Pursuant to S.C. Code Ann. §1-23-330(4) and S.C. Code Regs. 103-846.C, AT&T South Carolina respectfully requests that the Commission take administrative notice of this original interconnection agreement. By separate cover, AT&T South Carolina is providing ACI and the Office of Regulatory Staff copies of this CD via Federal Express for delivery on April 25, 2008 and AT&T South Carolina will file a copy of the CD with the Commission on April 25, 2008.

⁵ See Ham Direct at p. 3.

⁶ See *Id.* at 3-4.

⁷ See, e.g. Order Granting Expedited Review and Approving Application, *In Re: Joint Application of Alltel Holding Corporate Services, Incorporated (AHCSI) and Alltel Communications, Incorporated (ACI) to Approve the Transfer of ACI’s Authority to Provide Local Exchange Services to AHCSI, Grant AHCSI Certification to Provide Long Distance Services in South Carolina*, Order No. 2006-186 in Docket No. 2005-399-C at 2 (March 28, 2006). Exhibit RJH-2 to Mr. Ham’s Direct testimony is a copy of this Order.

agreement,” and in August 2006, Alltel responded that “[ACI] has retained its CLEC certificates” and “Windstream has obtained its own (separate) CLEC certificates.”⁸ AT&T South Carolina relied on this statement in executing the amendment that is the subject of this Emergency Motion.⁹

After submitting the amendment to the Commission on February 28, 2008, however, AT&T South Carolina discovered that this statement was not accurate at the time it was made.¹⁰ Five months earlier, in March 2006, the Commission entered an Order providing, in part, that “ACI’s Certificate to provide local exchange services shall be transferred to AHCSI.”¹¹ In July 2006, the Commission entered an Order providing that AHCSI’s name “shall be changed to Windstream Communications, Inc.,”¹² and on August 8, 2007, Windstream Communications, Inc. filed a “CLEC Tariff” in accordance with that Order. The cover letter accompanying Windstream Communications’ CLEC Tariff filing states that the “filing cancels the [ACI] CLEC Tariff.”¹³ As of the end of August 2006, therefore, ACI did not have a CLEC certificate in South Carolina, and it had withdrawn its CLEC tariff in South Carolina. In a subsequent telephone conversation with a representative of AT&T South Carolina, a representative of ACI acknowledged

⁸ See Ham Direct at p. 4; Exhibit RJH-3.

⁹ See Ham Direct at pp. 3-4; 8.

¹⁰ See Ham Direct at pp. 3-6. At this time, AT&T South Carolina has no reason to believe that this inaccuracy was the result of anything other than a good-faith mistake.

¹¹ See Order Granting Expedited Review and Approving Application, Order No. 2006-186 in Docket No. 2005-399-C at p. 9, ¶1 (emphasis added). As used in the Order, ACHSI stands for Alltel Holding Corporate Services, Inc. Exhibit RJH-2 to Mr. Ham’s Direct Testimony is a copy of this Order.

¹² See Order Approving Name Changes, Order No. 2006-429 in Docket Nos. 2005-399-C and 2006-146-C at p. 2 (July 24, 2006). Exhibit RJH-4 to Mr. Ham’s Direct Testimony is a copy of this Order.

¹³ See letter filed August 8, 2006 in Docket No. 2005-399-C. Exhibit RJH-5 to Mr. Ham’s Direct Testimony is a copy of this letter.

that ACI is not currently certificated to provide wireline services in the State of South Carolina.¹⁴

Moreover, Section 9.2 of the original interconnection agreement provides that if ACI “changes its name or makes changes to its company structure,” ACI must “notify [AT&T South Carolina] of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.”¹⁵ No such notification was provided by ACI.¹⁶ Had ACI provided such notification as required by the terms of the original agreement, AT&T South Carolina would not have signed the above referenced amendment, and the amendment would not have been submitted to the Commission.¹⁷

ARGUMENT

Granting AT&T’s Emergency Motion on or before May 27, 2008 will place both parties in the same position they would have occupied but for ACI’s actions. In sharp contrast, not granting AT&T South Carolina’s Emergency Motion on or before May 27, 2008 could severely prejudice AT&T’s rights and reward ACI for making inaccurate statements and failing to comply with its contractual notice obligations. The Commission, therefore, should grant AT&T’s Emergency Motion expeditiously.

- 1. Granting AT&T’s Emergency Motion on or before May 27, 2008 will place both parties in the same position they would have occupied but for ACI’s actions.**

AT&T South Carolina would not have signed the amendment and submitted it to the Commission if ACI had either provided accurate information regarding its

¹⁴ See Ham Direct at 6.

¹⁵ See Ham Direct at 6-7. Other provisions of the original agreement also require the agreement to be modified upon the occurrence of certain circumstances. See, e.g., Section 7.I.4 of Attachment 3 of the original agreement.

¹⁶ Ham Direct at 8.

¹⁷ Ham Direct at 8-9.

certification to provide wireline services in South Carolina or provided the notification required by the original interconnection agreement.¹⁸ In that case, if ACI believed it was legally entitled to continue operating under the same terms and conditions as set out in the original interconnection agreement, ACI could have brought an arbitration, enforcement, or other appropriate proceeding before the Commission. ACI and AT&T South Carolina would then have the opportunity to present their respective cases to the Commission, and the Commission would enter an Order directing the parties how to proceed. That is exactly the position the parties will occupy if the Commission grants AT&T South Carolina's Emergency Motion. In other words, granting AT&T South Carolina's Emergency Petition will prejudice neither: (1) ACI's ability to ask the Commission to allow it to continue operating under the same terms and conditions as set forth in the original interconnection agreement; nor (2) AT&T South Carolina's ability to oppose that request.

- 2. In sharp contrast, not granting AT&T South Carolina's Emergency Motion on or before May 27, 2008 could severely prejudice AT&T's rights and reward ACI for making inaccurate statements and failing to comply with its contractual notice obligations.**

Section 252(e)(4) of the federal Telecommunications Act of 1996 provides, in pertinent part, that "[i]f the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation . . . , the agreement shall be deemed approved." In other words, if the Commission does not grant AT&T's Emergency Motion on or before May 27, 2008, ACI likely will argue that the amendment is approved as a matter of law and that AT&T is

¹⁸ See Ham Direct at 8-9.

bound by the amendment.¹⁹ As explained above, however, the reason ACI has the luxury of that argument is because AT&T South Carolina signed and submitted the amendment, and the reason AT&T signed and submitted the amendment is that ACI made inaccurate statements and failed to comply with its contractual notice obligations. AT&T South Carolina respectfully submits that ACI should not be granted the luxury of an argument that exists only as a result of its own inaccurate statements and its own failure to comply with contractual notice provisions.

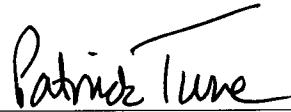
CONCLUSION

But for ACI's inaccurate statements and failure to comply with contractual notice provisions, ACI would not be in a position to possibly argue that the amendment to the interconnection agreement could become effective by operation of law. In order to remedy this inequitable situation, AT&T South Carolina respectfully requests that the Commission allow AT&T South Carolina to withdraw its submission of the amendment. AT&T South Carolina further requests that the Commission enter an order acknowledging this withdrawal as quickly as possible, and no later than May 27, 2008, in order to avoid any suggestion that the amendment might be deemed approved ninety days after its submission pursuant to Section 252(e)(4) of the federal Telecommunications Act of 1996.

¹⁹ AT&T South Carolina, of course, reserves the right to argue that the amendment would not become effective and/or that it would not be bound by the amendment under these circumstances.

Respectfully submitted on this 24th day of April, 2008.

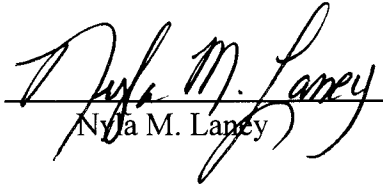
AT&T SOUTH CAROLINA

A handwritten signature in black ink, reading "Patrick W. Turner". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

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